

ASSEMBLY BILL

No. 906

Introduced by Assembly Members Hill and Smyth

February 26, 2009

An act to amend Section 1092 of the Government Code, relating to conflict of interest.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as introduced, Hill. Conflict of interest: statute of limitations.

Existing law prohibits Members of the Legislature, and state, county, district, judicial district, and county officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. A contract made in violation of any of these provisions may be avoided at the instance of any party except the officer interested in the contract. Existing law provides that the applicable statute of limitations for commencing an action to avoid a contract under this provision is 4 years after the plaintiff has discovered, or in the exercise of reasonable care should have discovered, the violation.

This bill would specify that the provision specifying the applicable statute of limitations for commencing that act applies to an action that was in violation of that prohibition and that was discovered, or in the exercise of reasonable care should have been discovered on or after January 1, 2003.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1092 of the Government Code is amended to read:

1092. (a) ~~Every~~ A contract made in violation of ~~any of the provisions of~~ Section 1090 may be avoided at the instance of any party except the officer interested therein. ~~No such~~ *The* contract ~~may~~ *shall not* be avoided because of the interest of an officer therein unless the contract is made in the official capacity of the officer, or by a board or body of which ~~he or she~~ *the officer* is a member.

(b) An action under this section shall be commenced within four years after the plaintiff has discovered, or in the exercise of reasonable care should have discovered, a violation described in subdivision (a).

(c) *The changes made to this section by Chapter 68 of the Statutes of 2007 shall apply to an action that was in violation of Section 1090 and that was discovered, or in the exercise of reasonable care should have been discovered, on or after January 1, 2003.*